

Expert Report of Findings Re:

**Charles A. Stanziale, Jr., Chapter 7 Trustee of
Student Finance Corporation v.
Pepper Hamilton, LLP et al.**

**Adversary No.: 04-56-423
Civil Action No. 04-1551-JJF**

Prepared by:



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Report Date: 7/13/07



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Scope

We have been engaged by Eckert Seamans Cherin & Mellott, LLC on behalf of their clients, Robert L. Bast, Pamela B. Gagne, W. Roderick Gagne as trustee, and certain Family Trusts (collectively "Family Defendants"). The Family Defendants are defendants in an action filed by Charles A. Stanziale, Jr., a Chapter 7 Trustee of the Student Finance Corporation ("SFC").

As of June 14, 2002, the sole shareholder of SFC, Andrew N. Yao, was also the sole shareholder of Premier Education Group GP, Inc. ("PEG GP, Inc."¹). PEG GP, Inc. was the general partner in Premier Education Group, LP² (alternately "PEG" or "the Company"). On June 14, 2002, Robert L. Bast and certain Family Trusts (collectively "Limited Partners") were the limited partners in PEG. On June 14, 2002, Mr. Yao transferred his previously pledged ownership interest in PEG GP, Inc. to Robert L. Bast, Pamela B. Gagne and certain Family Trusts ("the Transferees") pursuant to several Assignment and Acceptance of Loan and Security Agreements. Mr. Yao's ownership interest in PEG GP, Inc. had been pledged as collateral on certain guarantees by Mr. Yao and his spouse regarding loans to SFC which were then currently in default.

On behalf of the Trustee, Martin J. Lieberman, CPA/ABV, ASA of Weiser, LLP, Certified Public Accountants issued a report ("the Lieberman report") valuing a 100% equity interest in PEG using a discounted cash flow method. The purpose of our engagement was to:

1. Review the Lieberman report and ascertain the basis and validity of his discounted cash flow calculations and resulting conclusion of value;
2. Assess the reasonableness and appropriateness of Mr. Lieberman's methodology and his utilization of the information he relied upon; and

¹ Formerly CEC GP, Inc.

² Formerly CEC Partnership, LP.

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3. Calculate an amount PEG GP, Inc. would receive assuming PEG were sold for the estimated Fair Market Value as of June 14, 2002 and the proceeds distributed to the partners in accordance with the terms of the Partnership Agreement.

In connection with this engagement, J. Mark Penny, ASA, of Hempstead & Company has been engaged by counsel to determine the Fair Market Value of a 100% equity interest in PEG at June 14, 2002 and any discounts which may apply to the specific partnership interest held by PEG GP, Inc.

In forming our opinions on this matter, we have considered the documents enumerated in Exhibit 1. I am a Certified Public Accountant and a shareholder in the accounting firm of Nihill & Riedley, P.C. with over 20 years of professional experience with closely held companies. As managing principal of the firm's traditional accounting and business services division, I have been responsible for engagements involving the analysis of financial records and agreements in connection with the transfer or valuation of over one-hundred closely held business interests. My curriculum vitae is included as Exhibit 2.

We are being compensated at our standard hourly rates ranging from \$135 to \$300 per hour. My time on this engagement is being billed at \$300 per hour. The firm's overall compensation is not contingent upon the outcome of this matter or the opinions expressed herein. We reserve the right to supplement or amend our report based upon the receipt and analysis of any additional information.

Opinion

Based upon our analysis, we offer the following opinions to a reasonable degree of accounting certainty:

1. Mr. Lieberman's calculation of discounted cash flow used in valuing PEG is inaccurate and unreliable. His analysis as discussed herein fails to consider



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maximum restoration of 1.01% of total capital contributions. Prior to the year ending December 31, 2005, PEG GP, Inc. never received any cash distributions from its investment in PEG.

Report of J. Mark Penny, ASA

J. Mark Penny, ASA was engaged by counsel to provide an appraisal of the Fair Market Value of a 100% equity interest in PEG. His findings, analysis and conclusions are detailed in his valuation report dated July 13, 2007. Mr. Penny offers an opinion that the Fair Market Value of a 100% equity interest in PEG is reasonably stated at \$13.3 million as of June 14, 2002.

PEG GP, Inc.'s only asset is its investment in the PEG limited partnership. In the table below, we have calculated the distribution of proceeds pursuant to the priority of distribution shown in Section 6.01 of the Limited Partnership Agreement as if PEG were sold on June 14, 2002 for the \$13.3 million appraised value⁸:

\$13.3 million distribution:

Per Partnership Agreement			
Section	Allocation-% (GP/LP)	General Partner	Limited Partners
6.01 (a)	5/95	\$ 50,000	\$ 950,000
6.01 (b)	5/95	56,301	1,069,721
6.01 (c)	20/80	2,234,796	8,939,182
6.01 (d)	n/a	-	-
		\$ 2,341,097	\$ 10,958,903
		\$ 13,300,000	

⁸ Mr. Gary Camp, CEO/President of PEG, had the right to purchase a 10% partnership interest in PEG pursuant to an Option Agreement dated October 1, 2001 and was to be granted seven (7) separate options to purchase an additional 10%. The options provided "Certain Partnership Rights" to Mr. Camp prior to exercising the option. These rights included cash distributions and voting rights as he would otherwise have been entitled to receive had he exercised his options. Mr. Camp's Option Agreement resulted in Mr. Camp having an interest in any partnership distributions from PEG. There is no apparent consideration by Mr. Lieberman of these options and any contingent obligation which would occur or be recognized upon a transfer of the Company's ownership. The distribution of the \$13.3 million does not reflect any distribution which Mr. Camp may be entitled to.

To the extent that the value of PEG were determined to be greater than \$13.3 million as of June 14, 2002, the incremental increase would be distributed 20% to PEG GP, Inc. and 80% to the Limited Partners prior to considering any percentage which may be due Gary Camp (see Footnote 8). The value would have to exceed approximately \$54 million in June 2002 before the distribution percentage would change.

Analysis of the Lieberman Report

Mr. Lieberman issued a report on the valuation of a 100% equity interest in PEG and offered an opinion of the estimated value at March 31, 2002 and December 31, 2006 of \$30,320,000 and \$59,795,000, respectively.

Mr. Lieberman's conclusion of value was based upon a discounted cash flow calculation.⁹ The discounted cash flow method is a method within the income approach to valuation whereby the present value of future expected net cash flows is calculated using a discount rate.¹⁰ Essentially, the anticipated future cash flows of an entity as of a particular valuation date are reduced to present value by applying a discount rate.

Our analysis of the underlying financial "projections" utilized by Mr. Lieberman is summarized below. **Exhibit 3** is Mr. Lieberman's schedule of projections and discounted cash flow calculations as presented in his report.

Change in Accounting Method – December 31, 2005

Instead of projecting the anticipated future cash flows of PEG as of March 2002, Mr. Lieberman used the actual financial statements from 2002 to 2005 as his "projections." The actual net income of PEG was then adjusted by Mr. Lieberman to arrive at the cash flow which was discounted to a present value. The aggregate present value of his

⁹ A detailed narrative of Mr. Lieberman's methodology, analysis and calculations is not included within this report, which anticipates that the reader has read Mr. Lieberman's report.

¹⁰ International Glossary of Business Valuation Terms.

